

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: )

Anthony Bruce Sellers )

MBC File # 20-2004-161470

Physician's & Surgeon's )  
Certificate No. A-42248 )

\_\_\_\_\_  
Respondent. )

**ORDER CORRECTING CLERICAL ERROR IN  
"FILE NUMBER" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "file number" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the file number will conform to the Board's issued decision.

IT IS HEREBY ORDERED that the file number contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "20-2004-161470".

August 1, 2005



Joan M. Jerzak, Chief of Enforcement  
Division of Medical Quality  
Medical Board of California

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition for the  
Reinstatement of Revoked Certificate of:** )

**File No: 18-2001-118175**

**ANTHONY BRUCE SELLERS** )

**OAH No:L2005050345**

**Physician's and Surgeon's  
Certificate No. G-80081** )

**Petitioner.** )

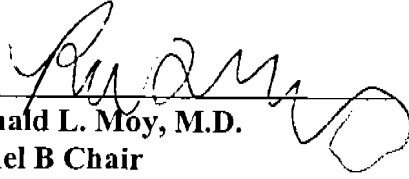
**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 17, 2005.

**DATED** July 18, 2005.

**DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Ronald L. Moy, M.D.  
Panel B Chair  
Division of Medical Quality**

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for the  
Reinstatement of Revoked Certificate of:

ANTHONY BRUCE SELLERS, M.D.,

Physician's and Surgeon's Certificate No. G 80081

Petitioner.

Case No. 20-2004-161470

OAH No. L2005050345

**PROPOSED DECISION**

James Ahler, Administrative Law Judge, Office of Administrative Hearings, heard this matter on June 21, 2005, in San Diego, California.

Petitioner Anthony Bruce Sellers represented himself.

Mary Agnes Matyszewski, Deputy Attorney General, represented the Office of the Attorney General, State of California under Government Code section 11522.

Sworn testimony and documentary evidence was received, closing arguments were given, the recommendation from the Office of the Attorney General was considered and the matter submitted on June 21, 2005.

**FACTUAL FINDINGS**

*Original Licensure*

1. On October 19, 1994, the Medical Board of California (the Board) issued Physician's and Surgeon's Certificate No. G 80081 to Anthony Bruce Sellers, M.D. (Petitioner).

### *The Surrender of Dr. Seller's Certificate*

2. On March 29, 2001, a First Amended Accusation was filed against Dr. Sellers, charging him with numerous violations of the Medical Practice Act including unprofessional conduct, the conviction of a crime substantially related to the fitness and qualifications of a physician, the violation of state drug laws, the unlawful self-use of dangerous drugs, the failure to maintain adequate records, prescribing dangerous drugs without a good faith prior examination and medical indication, and the excessive prescribing of dangerous drugs. The alleged misconduct spanned the period from August 2, 1999, through August 2000. In addition, it was alleged Dr. Sellers was terminated from the Medical Board of California's Diversion Program.

On June 14, 2001, Petitioner signed a Stipulation for Surrender of License and Order. Petitioner was represented by legal counsel. In that agreement, Petitioner admitted the truth of each charge contained in the First Amended Accusation, which he understood constituted cause for imposing discipline. Petitioner agreed to surrender his certificate with the express understanding that if he were to file an application for reinstatement, the Division of Medical Quality would treat it as a petition for reinstatement.

On July 25, 2002, the Stipulation for Surrender of License was adopted as the Decision in the matter. The Decision became effective on August 1, 2002.

### *The Petition for Reinstatement*

3. On July 25, 2004, Petitioner signed a petition for the reinstatement of his revoked certificate. A narrative statement was attached to the petition which stated in part:

"I surrendered my medical license two years ago. The major reason for all my disciplinary actions was that I had become addicted to cocaine. I wish that this had not happened. I made a terrible mistake and I apologize sincerely for it. I was also diagnosed with Bi-polar disorder. It was the mix of these two things together that caused the snow ball effect of everything else."

The narrative stated in January 2001, Petitioner entered a Christian diversion program, after which he became clean and sober. It reported his bi-polar disorder was treated with medications and he remained under the care of Dr. Denise Joseph and Dr. Grewall. According to the narrative, "Now with therapy and religiously taking my medication, I have had no Bi-polar disorder bouts for nearly two and a half years and no relapse with cocaine for more than three and a half years. According to Petitioner, he attempted to keep current in the field by utilizing the University of Irvine's medical library as well as attending continuing medical education programs.

4. Several documents were attached to the petition besides the narrative statement.

A letter from Leonidas R. Sellers, M.D., Petitioner's father, stated, "Anthony has been making the most of his time and efforts" by caring for his mother and tutoring his nieces and nephews. According to his father, Petitioner spends much time in the evening studying the Bible.

A letter from William D. Bailey, M.D., stated Petitioner has always been a caring and compassionate man. Dr. Bailey was familiar with Petitioner's mental disorder and with his past addiction to substances. Dr. Bailey confirmed Petitioner's attendance at a rehabilitation program and, according to Dr. Bailey, "With his therapists and medication he has had no signs of any manic-depressive episodes, he has remained on an even keel."

The Core Content Review of Family Medicine, a self-testing education program, issued a certificate of completion stating Petitioner completed study resulting in 52 hours of continuing medical education credit with the American Academy of Family Physicians and the American Medical Association.

CME issued certificates establishing that Petitioner participated in three educational activities resulting in the award of American Medical Association credits: pain and symptom management in end of life care (10 category 1 credits), palliative care educational activity (5 category 1 credits), and Alzheimer's disease (10 category 1 credits).

5. Petitioner testified in support of his petition to terminate probation. His testimony was brief, sometimes confusing and curious.

Petitioner was born on July 8, 1958, in Philadelphia, Pennsylvania. He came to Southern California with his family. Petitioner grew up in Long Beach.

In 1986, Petitioner graduated from UC Irvine with a Bachelor of Science degree in Biology. In 1990, Petitioner graduated from the University of Michigan School of Medicine with a Medical Doctorate degree. In 1992, Petitioner completed a surgical internship at the UCLA School of Medicine. He did not pursue a residency thereafter. Petitioner is not board certified.

After completing his surgical internship, Petitioner began working at various medical clinics in Southern California. He also began using cocaine. According to Petitioner, he used cocaine once a week or so, but it became a "never ending spiral downward" ultimately arresting in his arrest. While Petitioner was arrested for being under the influence of methamphetamine and possession of drug paraphernalia in August 1999, his drug of choice was always cocaine. According to Petitioner, he used methamphetamine just once, on the date of his arrest.

In September 1999, Petitioner was convicted of being under the influence and of possession of narcotics paraphernalia. Among other matters, he was sentenced to participate in a substance abuse program. Petitioner completed his criminal probation.

Petitioner admitted he wrote numerous prescriptions for controlled substances (which resulted in the filing of the First Amended Accusation), but he claimed the prescriptions always followed good faith examinations and there was always a medication indication for the prescriptions. He admitted he did not maintain adequate and accurate medical records for many of the patients.

Petitioner's mother twice contacted local law enforcement which resulted in Petitioner being involuntarily committed as a result of being a danger to himself and others. These events occurred in June 2000 and in May 2002. Petitioner was diagnosed with a bi-polar disorder following the first law enforcement contact, but refused to take his medication to control it.

Petitioner entered a 90-day court-ordered rehabilitation program in Fullerton sponsored by Victory Outreach in January 2001. Petitioner claimed he has not taken any non-prescribed controlled substances or dangerous drugs since then. Petitioner did not claim a formal sobriety birth date.

Petitioner entered the Medical Board's diversion program, but he was not cooperative during the intake and evaluation process and was discharged. According to Petitioner, he did not see the value of the diversion program at the time and it was inconvenient because it was located away from home, but would now be eager to participate in it.

Petitioner testified he has been treated for his bi-polar condition by Dr. Denise Joseph from July 2002 through March 2004 and by Dr. Harider Grewall from March 2004 to the present. Petitioner did not disclose his prior drug use and substance abuse problem to Dr. Grewall "because I was not asked about it." Dr. Grewall prescribes Depakote, Risperidol and Cogentin. Petitioner has not had a bi-polar episode while under Dr. Grewall's care. He attends a monthly group psychotherapy session. Dr. Grewall told the Medical Board's investigator that she was not aware of Petitioner's substance abuse history because Petitioner had not mentioned that to the nurse practitioner who took the initial history.

Petitioner has not had gainful employment since he surrendered his medical license. He lives with his mother and father. His mother was diagnosed with cancer last year and Petitioner has taken care of her at home since then. He also tutors his nephews and nieces. Petitioner regularly attends services at the Friendship Baptist Church in Yorba Linda. He said he attends AA and CA meetings once every couple of weeks. He does not have a 12-step sponsor.

Petitioner acknowledged he is not fully current with his continuing medical education.

Petitioner considered himself to be a good doctor. He said he was never sued for malpractice. Petitioner considered himself to be a good diagnostician and treating physician. He believes his period of sobriety and his ability to control his bi-polar disorder make him a candidate for reinstatement. Petitioner would submit to bodily fluid testing and accept other restrictions on his practice if his certificate were to be reinstated.

### *The Attorney General's Recommendation*

6. The Attorney General's Office opposed the petition.

### *Evaluation*

7. Petitioner's personal and professional life had become chaotic by the late 1990s. Petitioner did not have a realistic view of his situation and he lacked the skills required to combat his substance abuse problems and mental illness by himself. He wrote prescriptions for dangerous drugs to finance his frenzied lifestyle. Not surprisingly, there were professional and legal consequences arising out of his misconduct.

Petitioner entered a substance abuse rehabilitation program and, if he is to be believed, he has not used non-prescribed controlled substances or dangerous drugs since January 2001 although he does not claim a formal sobriety birth date. Before and after his rehabilitation program, Petitioner was involuntarily committed for misconduct arising out of his bi-polar condition. Petitioner sought appropriate medical treatment and it appears he is making progress in controlling his bi-polar condition.

Petitioner did not appear to have gained much insight into the dynamics of his substance abuse problem, including the self-delusion and flawed thinking that went along with it. He did not describe any self-examination or growth that he believed accompanied his rehabilitation and treatment. Petitioner asserted his undiagnosed psychiatric illness was the primary reason for his professional misconduct.

Petitioner minimized the nature and extent of his professional misconduct. He testified the prescriptions he wrote were always preceded by good faith examinations and there was always a medication indication for the prescriptions. However, in surrendering his license, he admitted (among other things) that between January 1 and July 18, 2000, he wrote approximately 1,890 prescriptions from the AR-EX Pharmacy in Los Angeles, mostly for narcotics, although he told a Medical Board investigator he had not worked as a physician since March 2000.

The clear and convincing evidence did not support the conclusion that the granting of the petition for reinstatement of Petitioner's certificate would be in the public interest at this time.

### LEGAL CONCLUSIONS

#### *Statutory Authority*

1. Business and Professions Code section 2307 provides in part:

"A person whose certificate has been revoked . . . may petition the Division of Medical Quality for . . . modification of penalty. . . after a period of not less than the

following minimum periods have elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license surrendered or revoked for unprofessional conduct, except that the division may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

...

The petition shall state any facts as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

... The division may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the division ... which shall be acted upon in accordance with Section 2335.

[T]he administrative law judge hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability ..."

#### *Regulatory Authority*

2. California Code of Regulations, title 16, section 1360.2 provides in part:

"When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).

(d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).



(e) Evidence, if any, of rehabilitation submitted by the applicant.”

### *The Burden and Standard of Proof*

3. In a proceeding to restore a disciplined professional license, the burden rests on a petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.

4. A person seeking reinstatement must adduce stronger proof of his present honesty and integrity than one seeking admission for the first time. An applicant for reinstatement must show by the most clear and convincing evidence that efforts made towards rehabilitation have been successful. *In re Menna* (1995) 11 Cal.4th 975, 986.

### *Relevant Factors in Determining Rehabilitation*

5. Rehabilitation is a “state of mind.” The law looks with favor upon rewarding with the opportunity to serve, one who has achieved “reformation and regeneration.” *Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.

6. Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.

7. The amount of evidence of rehabilitation required varies according to the seriousness of the misconduct at issue. An alcoholic’s rehabilitation is almost universally predicated on a choice to confront his or her problem, followed by abstinence sustained through ongoing participation in a supportive program, such as Alcoholics Anonymous. *In re Menna* (1995) 11 Cal.4th 975, 988.

8. Extreme emotional difficulties or physical disabilities suffered by a professional at the time of the professional misconduct which expert testimony establishes was directly responsible for the misconduct is mitigating, provided the professional establishes through clear and convincing evidence that he or she no longer suffers from such difficulties or disabilities. *In re Brown* (1995) 12 Cal.4th 205, 222.

9. Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented when an application for readmission to a professional practice can demonstrate by sustained conduct over an extended period of time that he or she is once again fit to practice. *In re Menna* (1995) 11 Cal.4th 975, 991.

### *Cause Was Not Established to Grant the Petition*

10. Cause was not established under Business and Professions Code section 2307 or under California Code of Regulations, title 16, section 1360.2 to grant the petition and to reinstate Physician’s and Surgeon’s Certificate No. G 80081. Petitioner’s narrative statement, his testimony and the documentary evidence he presented did not evidence a full

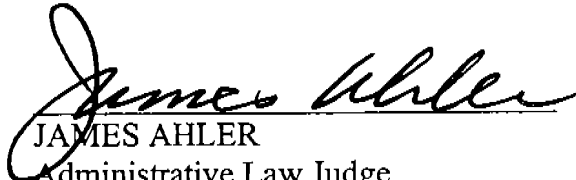
acknowledgment of the wrongfulness of his past actions. No evidence corroborated Petitioner's testimony concerning his recovery from his substance abuse problem. Petitioner's testimony and the documentary evidence concerning Petitioner's successful management of his bi-polar condition was far less than clear and convincing. The documentary evidence offered in support of his rehabilitation consisted of a letter from his physician-father and a letter from a physician-friend whom Petitioner sees about once a month or so. On the whole, it cannot be concluded that clear and convincing evidence established that permitting Petitioner to resume the practice of medicine, even on a probationary basis, would be in the public interest.

This conclusion is based on all Factual Findings and on all Legal Conclusions.

#### ORDER

The petition of Anthony Bruce Sellers for the reinstatement of his revoked physician's and surgeon's certificate is denied.

DATED: 6/27/05.

  
JAMES AHLER  
Administrative Law Judge  
Office of Administrative Hearings